IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11342 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MAYUR KANTIBHAI MAJETHIA

Versus

DEPUTY DIRECTOR (ADM) DIR.OF TREASURY & ACCOUNTS

Appearance:

1. Special Civil Application No. 11342 of 2001

MR AS SUPEHIA for Petitioner No. 1

MR MK PATEL, AGP for Respondents No. 1-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 13/02/2002

ORAL JUDGEMENT

#. Rule. Mr.M.K.Patel, learned AGP waives service of rule for the respondents. With the consent of the parties, the matter is taken up for final hearing today.

#. The father of the petitioner was serving as Deputy Accountant and while in service he died on 30.4.1999. After his death, the petitioner gave an application to give him compassionate appointment. The said application was rejected by the department on 21.9.2000 on the ground that the income which is received by the family of the deceased is more than Rs.2500/-. It is not in dispute that, while calculating the said quantum, the department has taken into consideration the pensionary benefit which is received by the family of the deceased and while calculating the quantum, the amount of Rs.2875/- is taken into consideration as per the certificate at page 12.

#. In view of the various decisions of this Court, while calculating the quantum of income of the family of the deceased, pension amount is not required to be taken into consideration. In that view of the matter, the petition is required to be allowed and the matter is required to be sent back to the authority to take fresh decision. The petition is accordingly allowed. The impugned order at Annexure-B is quashed and set aside. The matter is sent back to the department for reconsideration. While taking a fresh decision, the authority may not taken into consideration the amount of pension which is received by the family of the deceased. Such decision is to be taken in accordance with law within a period of three weeks from the date of receipt of the writ of this court. Rule is made absolute accordingly with no order as to costs.

(P.B.Majmudar,J)
(pathan)